

TITLE 3. DEPARTMENT OF FOOD AND AGRICULTURE

NOTICE IS HEREBY GIVEN that the Department of Food and Agriculture proposes to amend Sections 2303 (r) & (s), 2309 and 2311(b) of the regulations in Title 3 of the California Code of Regulations pertaining to Fertilizing Materials.

A public hearing is not scheduled. A public hearing will be scheduled if any interested person, or his or her duly authorized representative, submits a written request for a public hearing to the Department no later than 15 days prior to the close of the written comment period.

Notice is also given that any interested person may present statements or arguments in writing relevant to the action proposed to the agency officer named below on or before August 4, 2003.

INFORMATIVE DIGEST/ POLICY STATEMENT OVERVIEW

Existing law obligates the Department of Food and Agriculture to promote the distribution of effective and safe fertilizing materials essential for the production of food and fiber, to provide assurance to the consumer of commercial fertilizers that the product purchased is properly identified, and to provide assurance of the validity of the quality and quantity represented by the manufacturer, guaranteeing, labeling, and distribution of fertilizing materials as deemed necessary to circumscribe and prevent misbranded and adulterated fertilizing materials to protect California's agricultural industry and the consumer (Food and Agricultural Code, Section 14502, 14681, and 14682).

Section 2303 provides labeling information for fertilizing materials required by Section 14631 of Food and Agricultural Code. The amendment of Section 2303(r), clarifies the definition of base fertilizing materials ingredients by changing the examples of zinc, iron, and manganese base fertilizing materials ingredients from 36% zinc product, 12% iron product, and 7% manganese product to the new examples of zinc oxide, zinc sulfate, zinc from galvanizer skimmings, zinc from electric arc furnace dust, metallic zinc, refined zinc from the copper pickling process, zinc from circuit board recycling, iron II & III oxides, iron ore deposits, iron from recycling of bailing wire, rust or photographic operations, and manganese oxide. Also it adds the term "singly or" to indicate base fertilizing materials ingredients may be used as is or in various concentration levels in formulated or blended products; and corrects an editorial error in subsection (s) to provide an informational statement regarding the metals concentration levels in parts per million only for packaged commercial fertilizer and agricultural minerals via the label, internet access or an 800 number. Also, it specifies that the informational statement report maximum levels of heavy metals in "parts per million".

Section 2309 defines labeling requirements for phosphorus materials. The amendment of Section 2309, adds subsection (a), which provides for labeling guarantees for percent total phosphoric acid in phosphorous acid products and labeling information to the user regarding foliar and soil application to achieve best results.

Section 2311 defines slow released plant nutrients. The amendment of Section 2311 revises subsection (b) by adding item number “(5)” to recognize phosphorous acid products such as potassium phosphite and ammonium phosphite as a type of slow released plant nutrient products.

There is no existing, comparable federal regulation or statute.

COST TO LOCAL AGENCIES AND SCHOOL DISTRICTS

The Department of Food and Agriculture has determined that Sections 2303, 2309, 2311 do not impose a mandate on local agencies or school districts.

FISCAL IMPACTS

No reimbursable costs or savings under Part 7 (commencing with Section 17500) of Division 4 of the Government Code to local agencies or school districts, no nondiscretionary costs or savings to local agencies or school districts, and no cost or savings to any state agencies and no costs or savings in federal funding to the State will result from the proposed action.

EFFECT ON HOUSING COSTS

The Department has made an initial determination that the proposed action will not have a significant effect on housing costs.

EFFECT ON BUSINESSES

The Department has made an initial determination that the proposed action will not have significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states.

COST IMPACTS ON REPRESENTATIVE PRIVATE PERSONS OR BUSINESSES

The Department is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

ASSESSMENT

The Department has made an assessment that the proposed amendments to the regulations would not (1) create or eliminate jobs within California, (2) create new business or eliminate existing businesses within California, and (3) affect the expansion of businesses currently doing business within California.

ALTERNATIVES CONSIDERED

The Secretary of the Department of Food and Agriculture must determine that no reasonable alternative considered by the Department or that has otherwise been identified and brought to the attention of the Department would be more effective in carrying out the purposes for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

AUTHORITY

The Department proposes to amend Sections 2303, 2309, and 2311 pursuant to the authority vested by Sections 407 and 14502, and 14631 of the Food and Agricultural Code of California.

REFERENCE

The Department proposes to amend Sections 2303, 2309, and 2311 to implement, interpret and make specific Sections 14631 of the Food and Agricultural Code.

EFFECT ON SMALL BUSINESSES

The amendment of these regulations may affect small businesses.

CONTACT

The agency officer to whom written comments and inquiries about the initial statement of reasons, proposed action, location of the rulemaking file, and request for a public hearing may be directed is: Maryam Khosravifard, California Department of Food and Agriculture, Agricultural Commodities and Regulatory Services Branch, 1220 N Street, Sacramento, California 95814, phone (916) 445-0444. Written comments may be sent via, fax to (916) 445-2107 and e-mail to mkhosrav@cdfa.ca.gov.

AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS

The Department of Food and Agriculture has prepared an initial statement of reasons for the proposed action, has available all the information upon which its proposal is based, and has available the express terms of the proposed action. A copy of the statement of reasons and the proposed regulations in underline and strikeout form may be obtained upon request. The location of the information on which the proposal is based may also be obtained upon request.

If the regulations adopted by the Department differ from, but are sufficiently related to the action proposed, they will be available to the public for at least 15 days prior to the date of adoption. Any person interested may obtain a copy of said regulation prior to the date of adoption by contacting the agency officer named herein.

FINAL STATEMENT OF REASONS AND INTERNET ACCESS

The final statement of reasons when available can be obtained from the agency contact person or internet at <http://www.cdfa.ca.gov/newsinfo/regulations.html>. Documents pertaining to this rule making action may be accessed at <http://www.cdfa.ca.gov/newsinfo/regulations.html>.

DEPARTMENT OF FOOD AND AGRICULTURE

Date

Valerie Brown, Deputy Secretary